



Property Tax Newsletter

News and developments

A publication of the Property Tax Section

Rick Clayburgh
Tax Commissioner

Revisions to Abstract of Valuation of Certain Exempt Real Property

The Property Tax Division reviewed the Abstract of Valuation of Certain Exempt Real Property (N.D.C.C. § 57-15-01.1) and found two revisions were necessary.

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First, we deleted the line with the heading “40-57.1-03p.” That line was used for listing valuations of property subject to payments in lieu of taxes under § 40-57.1-03. The statute states, “The buildings, structures, fixtures, and improvements comprising a project for which payments in lieu of taxes are allowed under this section must be excluded from the valuation of property in the taxing district for purposes of determining the mill rate for the taxing district.” [Emphasis supplied.]

Also, § 57-15-01.1(2)(d) states, “‘Property exempt by local discretion or charitable status’ means property exempted from taxation as new or expanding businesses under chapter 40-57.1; improvements to property under chapter 57-02.2; or buildings belonging to institutions of public charity, new single-family residential or townhouse or condominium property, property used for early childhood services, or pollution abatement improvements under section 57-02-08.” [Emphasis supplied.] Note there is no reference to property making payments in lieu of taxes. Valuation of property that is exempt under § 40-57.1-03 is included in mill levy calculations; property that makes payments in lieu of taxes under § 40-57.1-03 is not included.

If a city or county grants an exemption, followed by payments in lieu of taxes, to a project, the valuation of the exempt property should be included in the calculation of mill levies for the years of the exemption. After the exemption ends and payments in lieu of taxes begin, that valuation should be removed from the mill levy calculation until payments in lieu of taxes end and the property becomes subject to ad valorem taxation.

The second change we have made to the Abstract of Valuation of Certain Exempt Real Property is addition of a note relating to the line headed “57-02-08(37).” Only valuation of property used for early childhood services, and not property used primarily as an adult day care center, should be included on that line. [See § 57-15-01.1(2)(d) quoted above.]

The revised forms are being sent to County Auditors in 2004. 



Office of
State Tax Commissioner
600 E Blvd. Ave., Dept. 127
Bismarck ND 58505-0599
701.328.3143
www.ndtaxdepartment.com
taxinfo@state.nd.us
www.discovernd.com

Sales Ratio Study and Assessments

Every year assessment officials obtain sales information from various sources: buyers and sellers in the market place, appraisers, realtors, loan officers, the Office of State Tax Commissioner, and wherever else they can get it. Assessors and boards of equalization need sales information to determine market value of residential and commercial property for assessment purposes.

Assessors need to verify the sales information with the parties to the transaction, if possible, to determine their motives for buying/selling, conditions of the sale and whether the transaction meets the specifications of the definition of market value. A questionnaire to use in verifying sales information is available in Section S (pages S-14, 15) of the Property Taxation Manual. Assessment officials are encouraged to use this form to confirm sales information, either by mail, telephone or personal visitation.

Assessors compile the sales and categorize them by type of property, size, age or whatever measure available to analyze the market. Assessors should use the sales information as a guide for determining assessments each year. For example, many times small, older homes sell for less money than the value listed for assessment purposes. This means those homes are over-assessed and consequently the owners pay more property tax than they should. Commercial property owners in small communities feel the impact of a mobile society in which consumers travel to larger cities to shop. Reduced income-producing capability of a property means less value in the market place. Assessments should reflect that loss in value.


Because the property tax is ad valorem (based upon value) and North Dakota law requires the assessments of residential and commercial property to represent market value, valid sales information is pertinent to the assessment process. Assessors use sales of property to track trends in market value for the various types of property and should reflect those trends in the true and full values of residential and commercial property.

County directors of tax equalization and assessors of the major cities submit sales information to the Office of State Tax Commissioner for the Sales Ratio Study. The sales information should be verified before being submitted for inclusion in the Sales Ratio Study. Assessment officials should use that sales information from the prior year or years to determine the 2004 assessments.

The State Board of Equalization (Board) is responsible for equalizing property values on a countywide basis. The Board relies on the sales ratio information and the current assessments as reviewed and approved by the county boards of equalization to determine if residential and commercial property valuations of individual counties represent market value. In the past, the Board has focused on improved residential and commercial property. Because of inequities in the valuation of lakeshore property brought to the attention of the Board within the last few years, the Board has made recommendations and requests for improving assessments of those properties. The Board will continue its efforts to achieve equitable assessments of all classes of property.

"Assessors should use the sales information as a guide for determining assessments each year. "

Assessment officials should analyze and use the sales information available to determine the 2004 assessments of vacant land, residential, commercial, and lakeshore property. Assessment officials have three opportunities to ensure values within their assessment districts represent true and full value. The assessor has the first opportunity and responsibility to determine current values. Those values are reviewed and approved by both the local (township/city) and county boards of equalization before they are submitted to the State Board of equalization for final review and approval.


Agricultural land is valued according to its agricultural value as defined in the statutes. The Board reviews the county average value of agricultural land for each county to determine if the average value is within 95 to 105 percent of the value certified by the tax commissioner. 

Farmer or Farm Laborer?

Some individuals incorporate their farm business and receive wages from the corporation for their work on the farm. Those individuals are laborers and their wages are non-farm income.

Residences occupied by those individuals are not eligible for exemption as farm residences because they are not occupied by a farmer as defined in N.D.C.C. § 57-02-08(15)(b)(2).

North Dakota Century Code § 57-02-08(15)(a)(1) allows exemption of buildings and structures located on agricultural land and used as part of the farm plant. As stated in number 7 of Property Tax Guideline G-9, Exemption of Farm Buildings and Other Improvements, “Buildings located on agricultural land used by a farmer to provide housing for that farmer’s workers are exempt, provided they are used as part of a farm plant.”


It is the position of the Office of State Tax Commissioner that a residence is eligible for exemption as a farm building if it is used to house a farm worker or farm laborer and is part of a farm plant. Eligibility for exemption as a farm building is not affected by the farm- or non-farm income of a farm laborer residing in the building. 

“Eligibility for exemption as a farm building is not affected by the farm- or non-farm income of a farm laborer residing in the building.”

Assessment of Possessory Interests Required

The definition of real property includes the rights and privileges involved in land and improvements. See N.D.C.C. § 57-02-04.

Assessors and boards of equalization are responsible for identifying and assessing taxable interests of individuals who use government-owned property or railroad operating property for non-exempt purposes. Examples include but are not limited to residences occupied by employees of the U.S. Forest Service and U.S. Fish Hatcheries, hangars at airports, buildings along railroad rights-of-way, etc.

Assessors should review the article in the March 2000 Property Tax Newsletter which describes the processes of identifying, listing and valuing possessory interests for assessment purposes. 

"The purpose for which a property owner uses property does not determine the classification."

Classification of Property

Real property assessed by township and city assessors and county directors of tax equalization may be classified and listed in the assessment lists as either agricultural land, residential property or as commercial property. North Dakota Century Code §§ 57-02-01(1), (12), and (5) define agricultural property, residential property, and commercial property respectively.

Agricultural property is basically land used to grow crops or graze farm animals. Residential property is property or portions of property used as a dwelling for as many as three family units and property on which as many as three mobile homes are located. Residential property does *not* include licensed hotels and motels, buildings containing four or more living units or tracts of land on which four or more mobile homes are located. If the use of the property does not qualify as agricultural land or residential property, the property must be classified as commercial property.


The commercial property classification is a catch-all category when property does not fit the other two classifications. For example, a property having a building with eight living units does not fit into either the agricultural property or residential property classification. Therefore, it must be classified as commercial property. If that same property is developed as condominium units with a separate legal description for each living unit, the individual units are classified as residential property. The purpose for which a property owner uses property does not determine the classification. A building with three living units which the owner uses as an investment or business is classified as residential because the property contains less than four living units.

Assessment officials should use the statutory definitions to determine property classification. 

Exemptions Must be Applied Proactively

North Dakota Century Code §§ 57-02-08(35),(36) provide for exemption of certain single family residences and condominium and townhouse property, and N.D.C.C. ch. 57-02.2 provides for exemption of improvements to residential and commercial improvements.

A number of requirements must be met in order to qualify for either of these exemptions, including the approval by the governing board of a resolution allowing the exemption. Because the purpose of the legislation is to provide an incentive for property owners to build or remodel, the resolution must be enacted proactively to affect properties constructed or remodeled *after* approval of the resolution. It is illegal for governing bodies to approve a resolution that affects assessments in a prior year.

An exemption granted according to either of the above-referenced statutes begins with the assessment date following commencement of construction or making the improvements. 


Publication of the Notice of Equalization Meetings

North Dakota Century Code (N.D.C.C.) § 57-23-02 requires the county auditor to publish a notice in the official county newspaper of the meeting dates of the various boards of equalization.


Township boards of equalization must meet on the second Monday in April unless the assessor serves two or more townships or cities. If so, the assessor and township clerk determine the meeting date in April for the township board of equalization. The township clerk of each township involved must publish notice of the hour and day of the meeting in the official newspaper and post that information at the usual place of meeting at least ten days before the meeting.

City boards of equalization must meet on the second Tuesday in April unless the assessor serves two or more cities or townships. If so, the assessor and city auditor determine the meeting date. The city auditor of each city involved must publish notice of the hour and day of the meeting in the official newspaper and post that information at the usual place of meeting at least ten days before the meeting.

County boards of equalization must meet within the first ten days of June. The exact date is determined by the board members.


The various boards of equalization need to determine the dates for their meetings before March 1 so the clerks can notify the county auditor of the individual meeting dates. The county auditor has the responsibility to publish the specific date of each board of equalization in the official county newspaper two times in March. The purpose of publishing those dates is to inform the public of the specific date for persons to discuss and possibly appeal their assessments. 

Tolerance to be Allowed for 2004 Assessments

The State Board of Equalization, at their March 4, 2004, meeting, voted to continue the same tolerance as in recent years. They will accept assessments that are within plus or minus 5 percent of the county agricultural value per acre for agricultural land, or within plus or minus 5 percent of market value for residential and commercial property. If assessments are outside the 5 percent tolerance, the Board will move them to within 3 percent of the goal. The Board reserves the right to depart from that policy when justified. 

Exemption of Renaissance Zone Projects

City governing boards have authority to allow partial or complete property tax exemptions of buildings involved in renaissance zone projects.

Assessment officials need to monitor when the exemptions begin and end. The exemption begins on the assessment date following the date of purchase or rehabilitation. For example, rehabilitation or construction began May 1, 2003; therefore, the exemption begins with the 2004 assessment. If the exemption period is for the maximum of five years, the building becomes taxable for the 2009 assessment. The exemption applies only to the value of the building. Land is not exempt. 

"The exemption begins on the assessment date following the date of purchase or rehabilitation."

"There are only two statutes that provide for reduction in value after assessments are finalized by the State Board of Equalization – N.D.C.C. § 57-02-41 and ch. 57-23."

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Procedures Available to Change Assessments

After the Tax Commissioner has certified real property assessments finalized by the State Board of Equalization, neither the county auditor nor the board of county commissioners has authority to change an assessment unless a statute specifically provides for it. There are only two statutes that provide for reduction in value after assessments are finalized by the State Board of Equalization – N.D.C.C. § 57-02-41 and ch. 57-23. The reason for making changes must be supported by paperwork.

When property goes from taxable to exempt status (or vice versa) during an assessment year because of a change in ownership, N.D.C.C. § 57-02-41 allows the county auditor to prorate the assessment and tax for the portion of the year the property remains taxable. The county auditor has a copy of the deed and, if the property qualifies for exemption, an application for property tax exemption.

The only procedure available for property owners to appeal their assessments after assessments are finalized for the year is the abatement procedure specified by N.D.C.C. ch. 57-23. There are specific provisions that must be followed. To begin the process, an individual who has an interest in the tax must file an application for abatement with the county auditor. The county auditor then sends the application to the township clerk or city auditor, depending on where the property is located. The township or city governing board makes a recommendation and returns the application to the county auditor who puts the application on the agenda for consideration by the board of county commissioners (the board). The board either approves the application as requested, grants partial relief or denies the application.

County auditors must keep a record to support all changes made to the assessment list. 

Qualifying Date For Exemptions

February 1 is the assessment date. N.D.C.C. § 57-02-11(1). All real property must be listed and assessed according to its value on February 1 each year. Assessment officials determine if property is considered real or personal, and estimate the true and full value of real property on February 1.


The state constitution and statutes allow exemption of certain qualifying property. Property owned by any level of government is exempt from taxation. Exempt government property used by individuals for private use is subject to possessory interest assessment.

In order to be exempt, the property or owner must qualify for the exemption *on the assessment date*. For example, in order for a property to qualify for exemption in 2004 as the residence of a blind person, the owner must provide evidence of blindness on or before February 1, 2004.

Qualification for exemption always relates to the conditions on February 1 each year. When property ownership changes during the year to an individual who qualifies for exemption on February 1 of that year, N.D.C.C. § 57-02-41 allows the county auditor to prorate the assessment for the portion of the year the property was taxable. For example, if a blind person purchases a property on September 22nd and provides evidence indicating that the individual was blind on or before February 1, the county auditor prorates the assessment for nine months. The property is taxable for nine months and exempt for three months of the assessment year.

Property tax exemptions authorized by N.D.C.C. §§ 40-57.1-04.3, 57-02-08(1-26, 28-34, 37-42) and 57-02-08.4 apply to qualifying properties on February 1 of the assessment year for which the exemptions are claimed. N.D.C.C. § 57-02-08(27) allows exemption of systems that provide heating, cooling, electrical or mechanical operations by means of solar, wind or geothermal energy, provided installation is completed before February 1. They may qualify for exemption for the current assessment year and four years following. If the installation is completed after February 1, the exemption period begins the next year.

Property tax exemptions granted according to N.D.C.C. § 40-57.1-03 begin with the next assessment period following commencement of construction. Exemptions granted according to N.D.C.C. § 40-57.1-04.1 begin with the next assessment period following the date on which the project operations begin. Exemptions granted according to N.D.C.C. §§ 57-02-08(35), (36) begin with the next assessment period following the year during which construction begins. Improvements qualifying for exemption according to N.D.C.C. ch. 57-02.2 become exempt for the assessment period following the year in which the improvements began.

Exemptions begin on January 1 of the year for which the statute provides. The only time a property exemption begins during the year is when the property ownership changes during the year to someone who qualifies for the exemption on February 1. 

"In order to be exempt, the property or owner must qualify for the exemption on the assessment date."

OFFICE OF STATE TAX COMMISSIONER

600 E. Boulevard Ave. Dept. 127
Bismarck, ND 58505-0599



Office of
State Tax Commissioner
600 E Blvd. Ave., Dept. 127
Bismarck ND 58505-0599
701.328.3143
www.ndtaxdepartment.com
taxinfo@state.nd.us
www.discovernd.com

Applications For Homestead Credit For Special Assessments

North Dakota Century Code § 57-02-08.3 allows individuals to apply for a credit on the annual installment of special assessments, provided they qualify for the homeowner's property tax credit (N.D.C.C. § 57-02-08.1)

To apply for the special assessment credit on the 2004 installment, applicants must qualify for the 2004 homeowner's credit and must apply for the special assessment credit on or before February 1 of 2005, the year the installment becomes payable.

The credit creates a lien on the property which is subject to simple interest of nine percent per year. The interest accrues from June 1 of the year the tax becomes payable. In the example above, the 2004 installment becomes payable in 2005 and the interest accrues on June 1, 2005.

The lien must be satisfied before the property is transferred. A transfer between spouses because of the death of one of them is exempt from this requirement.

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